

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT LANGFORD, # 156621,)	
)	
Plaintiff,)	Case No. 1:08-cv-836
)	
v.)	Honorable Paul L. Maloney
)	
SGT. BERNHARDT, et al.,)	
)	
Defendants.)	
<hr style="width:40%; display:inline-block; vertical-align:bottom;"/>)	

ORDER OF PARTIAL DISMISSAL WITHOUT PREJUDICE

This prisoner civil rights action has been pending before the court since September 3, 2008. Plaintiff is not proceeding *in forma pauperis*. Consequently, he is responsible for service of process on the defendants. Plaintiff was successful in serving defendants Bernhardt, Townsend, Holmes, Stonehouse, and Bultsma, but not defendants Yacob, White, Carol, Krisman, Danhoise, Colten, and Johnston. Plaintiff nevertheless filed a motion for entry of a default judgment against those defendants, on the basis of the untenable assertion that they were somehow represented by counsel for the other parties. The court has explained in detail the reasons underlying its conclusions that plaintiff has never served those defendants and that they are not properly before the court. (*See* Opinion and Order, docket # 48).

By order entered December 17, 2009 (docket # 53), the magistrate judge ordered plaintiff to show cause why the claims against defendants Yacob, White, Carol, Krisman, Danhoise, Colten, and Johnston should not be dismissed without prejudice, for failure to make service of

process within the time required by Rule 4(m) of the Federal Rules of Civil Procedure. Plaintiff has filed a response to the order (docket # 60) in which he reiterates the argument that the court should have entered a default judgment against the unserved defendants. The response, however, fails to show any effort by plaintiff to effect service of process in the last six months or any other ground for concluding that plaintiff has been diligent in his efforts to serve these defendants.

Rule 4(m) of the Federal Rules of Civil Procedure grants plaintiffs a 120-day period in which to serve defendants with process. The initial 120-day period would have ended on May 15, 2009, but the magistrate judge twice extended the time for service, the last period expiring on August 20, 2009. The record does not disclose that plaintiff has served summonses on the remaining defendants at any time before or after August 20, 2009, and plaintiff has failed to show good cause for his failure to do so. Accordingly:

IT IS ORDERED that this action be and it hereby is DISMISSED against defendants Unknown Yacob, Cathy White, Unknown Carol, John Krisman, Cara Danhoise, Mary Colten, and Carmalla Johnston without prejudice, pursuant to Fed. R. Civ. P. 4(m).

Dated: April 2, 2010

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge